

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

|  |   |                          |
|--|---|--------------------------|
| Fabrica la Estrella S.A. de C.V.,      | ) | C.A. No. 6:05-466-HMH    |
|  | ) |                          |
| Plaintiff,                             | ) |                          |
|  | ) | <b>OPINION AND ORDER</b> |
| vs.                                    | ) |                          |
|  | ) |                          |
| Miguel A. Banda, Bantex International, | ) |                          |
| Inc., and Coker International, LLC,    | ) |                          |
|  | ) |                          |
| Defendants.                            | ) |                          |

This matter is before the court on Fabrica la Estrella S.A. de C.V.’s request for pre-judgment interest on the award of \$300,000 by this court in its January 4, 2007, order. The court found for the Plaintiff on its Statute of Elizabeth claim pursuant to S.C. Code Ann. § 27-23-10. “The law has long allowed prejudgment interest on obligations to pay money from the time when, either by agreement of the parties or operation of law, the payment is demandable, if the sum is certain or capable of being reduced to certainty.” Butler Contracting, Inc. v. Court Street, LLC, 631 S.E.2d 252, 258 (S.C. 2006).

The \$300,000 transferred to Coker International, LLC (“Coker”) from Bantex International, Inc. (“Bantex”) is a sum certain. The question remains when “either by agreement of the parties or operation of law, the payment [was] demandable.” *Id.* The Plaintiff asserts that the \$300,000 was demandable when Bantex transferred the funds to Coker on June 7, 2004. However, it is unclear when exactly Coker learned that the \$300,000 was the Plaintiff’s money. Further, there is no evidence of when the Plaintiff formally demanded the money from Coker prior to the commencement of this action. “The filing of

the complaint in this action, however, was clearly a formal demand upon the donee.” New Amsterdam Cas. Co. v. Waller, 323 F.2d 20, 28 (4th Cir. 1963).

Based on the foregoing, the court finds that prejudgment interest at the rate of 8.75% should be awarded from March 13, 2006, when the Plaintiff commenced this action against Coker. See S.C. Code Ann. § 34-31-20(A) (West Supp. 2006).

**IT IS SO ORDERED.**

s/Henry M. Herlong, Jr.  
United States District Judge

Greenville, South Carolina  
January 22, 2007